

The Judicial System is On Trial



By Sidney Secular

Legal cases tend to lack the drama or melodrama of TV series like Law and Order or its offshoots or Perry Mason. They are not long, drawn out affairs, and they usually do not intend to establish new legal principles. In most cases, the State wants to win to look ethical and good, and enhance the reputation of the prosecutor so he/she can move up the judicial ladder of success or move into a more prestigious or visible political career. The defense attorneys, win or lose, want to save face for their clients or themselves, and use cases as springboards to obtain more clients.

The right of a defendant to be treated fairly becomes a secondary issue in today's heavily politicized or pugilistic environment. Crowded court dockets with backed up caseloads extending sometimes into years foster a situation where haste and short-cuts lead to results which are not fair or proper. Today, 94% of criminal convictions are the result of pleading guilty without a trial by someone's peers which was once considered normal practice.

Many additional factors lead to improper judicial decisions. These range from financial ruination to wide-scale structural problems within the judicial system. The massive expansion of the prison industrial complex nationwide has meant that states need inmates to fill prisons to get a decent return on investment. The politically expedient "tough on crime" campaigns of recent years assisted in filling up prisons with

those committing minor offenses. The fear of long prison sentences has caused defendants to plea out early even when they are not guilty. The National Registry of Exonerations, an American database that has tracked all exonerations of innocent defendants since 1989, has listed 580 cases in which innocent defendants have pled guilty. People don't want to feel that all the cogs and wheels are working against them to end their lives as they have known them. Sentences resulting from jury trials can result in tenfold increases in jail sentences from plea offers or even life sentences upon conviction, especially with the newfound follies of "hate crimes" and punishing people merely for their political convictions. Furthermore, the system can punish defendants for refusing to plead guilty as a form of secondary add-on to their sentences as a form of retribution. This is sometimes referred to as a "trial penalty".

Fear often makes the innocent defendant, already weary and worn out from the judicial process, choose a lesser sentence rather than face the choice of going free versus going to prison for the remainder of his life or for the best or better part of it. The odds are heavily stacked in favor of the prosecution and the state in most cases, anyway.

Once a defendant has been held in jail for a time, they will "see the light" more readily and clearly. The promise of an immediate release and reunion with family and friends will induce a plea of guilty if a release with probation would be the result, without considering the long-term consequences of having a "guilty" record.

Today, many defendants cannot afford to put forth a quality legal case even if their lives or livelihoods depend upon it. A public defender is a poor option, but many times is the only choice available to those without means. Public defenders have very large caseloads and many times don't have the time to prepare the best case possible for the defendant.

The courtroom is increasingly a place where only the wealthy can afford to be. According to the National Association for Legal Gun Defense, the average cost of a criminal trial (without a victim's death) with a private law firm representing the defendant is about \$320,000. A typical death penalty trial can cost the defendant \$1.3 million. These estimates include the cost of a defense attorney, a legal assistant, a private investigator, expert witnesses, court costs and bail bond expenses. The average cost of employing just an attorney for even simple cases will likely top \$25,000.

Since the "pandemic" began, there has been even more pressure for prosecutors and defense attorneys to settle cases outside of trial. Courts are limiting human presence as jails are said to be hotspots of COVID-19. Many courts stopped having jury trials for months, making it even more difficult for a defendant to exercise his Constitutional right to have a trial with a jury of his peers.

The four professors writing for "The Conversation" performed a study involving 700 U.S. adults. What they found on defendant behavior was alarming. The results confirmed that both guilty and innocent participants were more likely to plead guilty when warned of the increased difficulties posed by COVID-19. The innocent participants ranked the "pandemic" as a more important factor in shaping the decision to plead guilty than the "guilty" participants.

There must be a way to allow Americans fair access to a trial as required by the Constitution without undue harmful effects on their constitutions and pocketbooks. By frightening defendants or making it financially impossible for them to present a decent case, the system does not allow them to maintain their innocence until proven guilty. This is just another harmful assault on the poor and middle classes that the powers-that-be seem to be intent on imposing upon them.

It would hardly be surprising to see many of the January 6 protesters plead guilty when in fact they are innocent of any wrongdoing or of any of the “trumped” up charges against them.

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E-Mail Sidney Secular: Success_Express@yahoo.com